

HOUSE BILL NO. 202

INTRODUCED BY A. NOONAN

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING FROM 15 DAYS TO 20 DAYS THE TIME WITHIN WHICH FINAL WAGES ARE PAYABLE TO A SEPARATED EMPLOYEE AS AN ALTERNATIVE TO PAYMENT OF THE EMPLOYEE'S FINAL WAGES ON THE NEXT REGULAR PAYDAY; AMENDING SECTION 39-3-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-3-205, MCA, is amended to read:

"39-3-205. Payment of wages when employee separated from employment prior to payday -- exceptions. (1) When an employee separates from the employ of any employer, all the unpaid wages of the employee are due and payable on the next regular payday for the pay period during which the employee was separated from employment or ~~45~~ 20 days from the date of separation from employment, whichever occurs first, either through the regular pay channels or by mail if requested by the employee.

(2) Except as provided in subsection (3), when an employee is separated for cause or laid off from employment by the employer, all the unpaid wages of the employee are due and payable immediately upon separation unless the employer has a written personnel policy governing the employment that extends the time for payment of final wages to the employee's next regular payday for the pay period or to within ~~45~~ 20 days from the separation, whichever occurs first.

(3) When an employee is discharged by reason of an allegation of theft of property or funds connected to the employee's work, the employer may withhold from the employee's final paycheck an amount sufficient to cover the value of the theft if:

(a) the employee agrees in writing to the withholding; or

(b) the employer files a report of the theft with the local law enforcement agency within 7 days of the separation from employment, subject to the following conditions:

(i) if no charges are filed in a court of competent jurisdiction against the employee for the alleged theft within ~~45~~ 20 days of the filing of the report with a local law enforcement agency, wages are due and payable

1 upon the expiration of the ~~15-day~~ 20-day period; or

2 (ii) if charges are filed against the employee for theft, the court may order the withheld wages to be offset
3 by the value of the theft. If the employee is found not guilty or if the employer withholds an amount in excess of
4 the value of the theft, the court may order the employer to pay the employee the withheld amount plus interest."

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6 **NEW SECTION. Section 2. Notification to tribal governments.** The secretary of state shall send a
7 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
8 band of Chippewa.

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10 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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